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9 **UNITED STATES DISTRICT COURT**
10 **SOUTHERN DISTRICT OF CALIFORNIA**
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12 UNITED STATES OF AMERICA,
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14 v. Plaintiff,
15 MATEO SANCHEZ-ORTEGA,
16 Defendant.

Crim. Case No. 10CR2558 WQH

ORDER

17 HAYES, Judge:

18 The matter before the Court is the motion for time reduction by an inmate in federal
19 custody (Doc. # 32) filed by the Defendant.

20 On April 13, 2011, this Court sentenced the Defendant to be imprisoned for a term of
21 46 months for attempted entry in to the United States after deportation in violation of 8 U.S.C.
22 § 1326.

23 Defendant moves the Court under Title 18 U.S.C. § 3583 for a reduction of his sentence
24 on the grounds that he is deprived of benefits and/or privileges afforded to United States
25 citizen inmates.

26 18 U.S.C. § 3582(c) provides in relevant part that “[t]he court may not modify a term
27 of imprisonment once it has been imposed except that - (1) in any case ... (B) the court may
28 modify an imposed term of imprisonment to the extent otherwise expressly permitted by statute

1 or by Rule 35 of the Federal Rules of Criminal Procedure.”

2 There are no grounds upon which to modify Defendant’s sentence pursuant to Rule 35.
3 This Court has no authority to order Defendant’s sentence reduced at this stage in the
4 proceedings. The Sentencing Reform Act gives the Bureau of Prisons the responsibility to
5 “designate the place of the prisoner’s imprisonment.” 18 U.S.C. § 3621(b). *See United States*
6 *v. Cubillos*, 91 F.3d 1342, 1344-45 (9th Cir. 1996). The Court of Appeals for the Ninth Circuit
7 has rejected the assertion that an alien’s equal protection rights are violated when he cannot
8 be housed in a minimum security facility or a community correction center based upon his
9 deportation status. *See McClean v. Crabtree*, 173 F.3d 1176, 1185-86 (9th Cir. 1999). There
10 are no grounds upon which this Court would reduce Defendant’s sentence.

11 IT IS HEREBY ORDERED that the motion for time reduction by an inmate on federal
12 custody (Doc. # 32) is DENIED.

13 DATED: December 15, 2011

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15 **WILLIAM Q. HAYES**
16 United States District Judge
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